Appendix A

NOTICE TO ALL EMPLOYEES

Pursuant to the Recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

WE WILL cease and desist from enforcing our rule prohibiting the circulation of union petitions and the distribution of union literature on our parking lot during the employees' nonworking hours.

WE WILL cease and desist from enforcing our rule prohibiting the solicitation of union membership in our plant during the employees' nonworking hours.

WE WILL NOT engage in any like or related acts or conduct which interferes with, restrains, or coerces our employees in the exercise of their rights to self-organization, to form labor organizations, to join or assist LOCAL 776, UNITED ELECTRICAL RADIO & MACHINE WORKERS OF AMERICA, INDEPENDENT, or any other labor organization, to bargain collectively through representatives of their own choosing, to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities except to the extent that such right may be effected by an agreement requiring membership in a labor organization as a condition of employment as authorized by Section 8 (a) (3) of the Act.

We hereby rescind our rule prohibiting the circulation of union petitions and the distribution of union literature on our parking lot during nonworking hours.

We hereby rescind our rule prohibiting the solicitation of union membership by our employees, in the plant, during nonworking hours.

THE MONARCH MACHINE TOOL CO.,
Employer.

By _____
(Representative) (Title)

Dated_____

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

SMITH RICE MILL, INC., AND DEWITT BONDED WAREHOUSE COMPANY *and* INTERNATIONAL UNION OF UNITED BREWERY, FLOUR, CEREAL, SOFT DRINK AND DISTILLERY WORKERS OF AMERICA, CIO, PETITIONER. *Case No. 32–RC–572. February 11, 1953*

Decision and Direction of Election

Upon a petition duly filed, a hearing was held before John E. Cienki, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated it powers in connection with this case to a three-member panel [Chairman Herzog and Members Murdock and Peterson].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.[1]

4. The Petitioner seeks a unit composed of all production and maintenance employees of the Employer at its rice mill and warehouse in DeWitt, Arkansas, excluding office-clerical employees, guards, professional employees, and all supervisors as defined in the Act. This unit is consistent with that found appropriate in the earlier proceeding involving this Employer.[2] The Employer contends that the unit should be limited to permanent employees, and urges the exclusion of seasonal employees and those employees holding year-round jobs who have not attained permanance. As grounds for these exclusions the Employer asserts that no procedure for recalling the same individuals from season to season has been established, and that there is a high degree of employment turnover of individuals in some year-round jobs. It contends that the resulting fluctuation in individual employment prevents successful collective bargaining.

Although the Employer does not maintain a system whereby it recalls the same individual seasonal employees from year to year, it appears that its method of obtaining seasonal workers remains the same. As a result, those workers are obtained from the same labor market from year to year, so some of the same employees can be counted on to return each season. We find no merit in this contention or in the Employer's reason for excluding from the unit certain year-round positions, merely because individuals holding those jobs do not choose to remain with the Employer long enough to become permanent employees. The Board's unit finding is based upon functionally related occupational categories, and all employees working at jobs within the unit are necessarily included and entitled to representation, irrespective of the tenure of their employment.[3] Accordingly, we shall include both groups of employees in the unit hereinafter found appropriate.

[1] The Employer moved to dismiss this proceeding on the ground that a question concerning representation could not be raised unless and until the union certified by the Board on October 24, 1950, as representative of the unit of employees requested herein had been decertified As more than a year has elapsed since the certification, and as no bargaining agreement has been executed, there is no obstacle to a present determination of representatives. The Employer's motion is, accordingly, denied. See *Federal Shipbuilding and Drydock Company*, 76 NLRB 413.

[2] 83 NLRB 380.

[3] See *The Sheffield Corp.*, 94 NLRB 1781; *Gerber Products Company*, 93 NLRB 1668.

We find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

All production and maintenance employees of Smith Rice Mill, Inc., and DeWitt Bonded Warehouse Company at their plant in DeWitt, Arkansas, excluding office-clerical employees, guards, professional employees, and all supervisors as defined in the Act.

5. Among the seasonal employees are what the Employer refers to in this proceeding as casual or temporary employees, because they are hired by the day or by the week depending upon the needs of the Employer. They perform the menial labor tasks connected with the operation as needed, for a minimum wage. When the Employer needs this type of labor, they are hired wherever obtainable. Thus, many of them are farm workers from the cotton, rice, and truck farms, temporarily laid off sawmill workers or migratory workers, seeking stop-gap employment. In our opinion, these so-called casual or temporary employees lack a sufficiently regular and substantial tenure of employment to entitle them to participate in the election and, accordingly, we find that they are ineligible to vote.[4]

The Employer has approximately 49 regular positions, and hires approximately 55 or 60 seasonal workers. The Employer's seasonal operations last from mid-September to May of the following year. Although the overall peak employment usually occurs in October, the peak for various operations and departments varies as to time, *e. g.*, peak employment in the package room occurs during November, December, and January; in repair labor during July and August; in rough rice labor during November and December; and in warehouse labor during June and July. The highest number of employees on the Employer's payroll during October was 78, over 50 percent of which were regular employees. Under these circumstances we see no reason to postpone the election, as we regard the present employee complement as substantial and representative. We shall therefore direct an immediate election among those currently employed.[5]

[Text and Direction of Election omitted from publication in this volume.]

[4] See *South Porto Rico Sugar Co.*, 100 NLRB 1309.
[5] See *The Borden Company*, 89 NLRB 227.